

In the High Court of Punjab and Haryana, Chandigarh.

Civil Revision No. 2960 of 2007

Date of Decision: 13.12.2007

Sita Ram

...Petitioner

Versus

Kamla Devi and Another

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: None for the petitioner.

Ms. Amandeep S. Sivia, Advocate
for the respondents.

RAJESH BINDAL, J.

The challenge in the present petition is to the order dated May 11, 2007 passed by learned Additional Civil Judge (Senior Division), Muktsar, whereby the evidence of petitioner/plaintiff has been closed in a suit filed against respondents/defendants for mandatory injunction.

Heard learned counsel for the respondents.

The case set up by the petitioner is that after the framing of issues on November 23, 2005, the case was fixed for evidence of plaintiff. It is stated that the petitioner was pursuing his case diligently, which is evident from the fact that he had already examined as many as seven witnesses. He further submitted that the evidence of petitioner/plaintiff could not be completed due to his ill-health regarding which a certificate issued by the Government Civil Hospital, Muktsar was also submitted in trial Court. He further submitted that inspite of depositing process fee and diet money for summoning the official witnesses for May 11, 2007, they could not attend the Court on the date fixed. Oral request for adjournment made by petitioner/plaintiff was declined by learned trial Court and evidence of the plaintiff qua other witnesses was closed by order, though cross examination of the petitioner was permitted. The circumstances under which the petitioner

could not conclude his evidence were beyond his control. The submission is that in case one opportunity is granted to him, the petitioner/plaintiff will produce his entire evidence on the date to be fixed by learned trial Court.

Having heard learned counsel for the respondents, I find merit in the claim made by the petitioner/plaintiff. It is not disputed that the date on which the evidence of the petitioner was closed by order, he was admitted in hospital. Keeping in view the interest of justice, I grant one opportunity to the petitioner/plaintiff for producing his entire evidence on the date to be fixed by the trial Court. The petitioner/plaintiff will be at liberty to take the help of the Court to summon the witnesses.

The revision petition is disposed of in the manner as indicated above. The parties are directed to appear before the Court below for further proceedings on January 12, 2008.

(Rajesh Bindal)
Judge

December 13, 2007
“DK”